

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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TECON OIL SERVICES LIMITED

Index No.: 650092/2007

Plaintiff,

- against -

**SUMMONS**

BAYERISCHE HYPO-UND VEREINSBANK,  
OLUWOLE OGBONYOMI,  
APF CAPITAL MANAGEMENT, LLC,  
ASSET PLUS FINANCE, LLC,  
HARRY SCHARPING,  
HAGAMA VERTRIEB GMBH.

Defendants.  
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To the above named Defendant(s)

Bayerische Hypo-Und Vereinsbank, US: 150 East 42<sup>nd</sup> Street, New York, NY 10017  
Germany: Aktiengesellschaft, Am Tucherpark 16,  
80538 Munich, Germany  
Oluwole Ogbonyomi, 1700 Briergate Drive, Duluth GA 30097  
APF Capital Management, LLC, 1170 Peachtree Street, #1200, Atlanta, GA 30309  
Asset Plus Finance, LLC, 1170 Peachtree Street, #1200, Atlanta, GA 30309  
Harry Scharping, Im Winkle 10, 2025 Hamburg, Germany  
Hagama Vertrieb GMBH, Im Winkle 10, 2025 Hamburg, Germany

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York): and in case of your failure to appear or answer; judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Domicile of Defendant, Bayerische Hypo-Und Vereinsbank, which is 150 East 42<sup>nd</sup> Street, New York, New York 10017.

Dated: Washington, DC 05/02/2007

Martins I. Imudia and Associates, APLC

By 

Ismail T. Shahtakhtinski, Esq.  
Attorney for Plaintiff  
Tecon Oil Services Limited

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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TECON OIL SERVICES LIMITED

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- against -

**COMPLAINT**

BAYERISCHE HYPO-UND VEREINSBANK,  
OLUWOLE OGBONYOMI,  
APF CAPITAL MANAGEMENT, LLC,  
ASSET PLUS FINANCE, LLC,  
HARRY SCHARPING,  
HAGAMA VERTRIEB GMBH.

Defendants.  
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Now into Court through undersigned counsel, comes plaintiff herein, Tecon Oil Services Limited (hereinafter "Tecon"), who hereby files this complaint and seeks all appropriate remedies available by law and the facts of this case. The relevant facts are as follows:

I.

Plaintiff Tecon is a foreign corporation domiciled in Lagos, Nigeria. Plaintiff is a company whose primary business is in the oil and gas industry in Nigeria.

II.

Defendant Bayerische Hypo-und Vereinsbank is a German bank, doing business in the United States with its principal United States place of business at 150 East 42<sup>nd</sup> Street, New York, New York, 10017 and head office located in Germany at the following address:  
Aktiengesellschaft, Am Tucherpark 16, 80538 Munich, Germany.

III.

Defendant APF Capital Management, LLC is a domestic corporation with its principal

place of business at 1170 Peachtree Street, #1200, Atlanta, GA 30309.

IV.

Defendant Asset Plus Finance, LLC is a domestic corporation with its principal place of business at 1170 Peachtree Street, #1200, Atlanta, GA 30309.

V.

Defendant Harry Scharping is a German citizen with a domicile of Hamburg, Germany.

VI.

Defendant Hagama Vertrieb GmbH is a German corporation with a domicile of Hamburg, Germany.

VII.

Defendant Oluwole Ogbonyomi, resides and does business in the State of Georgia. His home address is 1700 Briergate Drive, Duluth, GA 30097 and his business address is 1170 Peachtree Street, #1200, Atlanta, GA 30309

VIII.

In March 2003, Tecon executives began a series of meetings in Nigeria for the purpose of obtaining an operating loan in the amount of \$16 million in order to procure oilfield tools and equipment to fulfill contracts with Shell Oil Company and AGIP Energy Company.

IX.

On May 28, 2003, for purposes of securing a loan, Tecon executives met with defendant Oluwole Ogbonyomi, CEO, APF Enterprises and Raphael Femi Lewu, Executive Director, Asset Plus Group. Mr. Ogbonyomi stated that he represented the interest of a German bank (Bayerische Hypo-und Vereinsbank) that would be willing to extend credit to Tecon. Mr. Ogbonyomi requested a formal credit application.

X.

After receiving the credit application, Mr. Ogbonyomi later contacted Tecon and informed them that their application had been accepted by Bayerische Hypo-und Vereinsbank. The bank, however, would require that as a final condition to a \$16 million loan, the bank required that an escrow account be established with Bayerische Hypo-und Vereinsbank in Hamburg, Germany in which payments to Tecon from Shell Oil would be directly deposited. Mr. Ogbonyomi further informed Tecon that while the loan was coming from Bayerische Hypo-und Vereinsbank, it was being channeled through Hagama Vertrieb, GmbH, which he claimed to be the investment arm of Bayerische Hypo-und Vereinsbank.

XI.

On July 24, 2003, Mr. Casimir Maduafokwa, CEO of Tecon, signed a Loan and Security Agreement pursuant to the loan of \$16 million in Atlanta, GA.

XII.

Soon after execution of the loan agreement, Tecon authorized payments from Shell Oil into the Bayerische Hypo-und Vereinsbank escrow account #91-00-28273 (hereinafter the "escrow account") and those payments began.

XIII.

Following their fulfillment of all conditions of the loan agreement, Tecon attempted to access the loan funds, but was met with negative results.

XIV.

In the fall of 2003, Tecon received copies of purported wire transfer forms from Harry Scharping, CEO of Hagama, which supposedly reflected the disbursement of funds to Tecon. These wire transfer forms were later determined to be fraudulent and no monies were disbursed.

XV.

On December 17, 2003, defendant Harry Scharping of Hagama Vertrieb notified Tecon that for reasons unknown, Bayerische Hypo-und Vereinsbank would not disburse the loan.

XVI.

Between July 2003 and December 2003, funds from Shell Oil, payments to Tecon for its services, were being deposited in the Bayerische Hypo-und Vereinsbank escrow account. The account balance rose to over \$2.2 million.

XVII.

Upon continuous failure by Defendants to disburse the loan, Tecon on or about November 30, 2003 requested for a refund of \$500,000 from the supposed or would be escrow account. That request was honored. On or about December 17, 2003, Tecon further requested for another refund of \$600,000 from the said escrow account. That request was not honored. Instead, \$300,000 was wired to Tecon.

XVIII.

On or about December 17, 2003, Tecon cancelled all aspects of the loan transaction and demanded the balance of monies contained within the escrow account, approximately \$1.4 million.

XIX.

On or about February 25, 2003, Harry Scharping, MD/CEO of Hagama, informed Tecon that approximately \$480,000 had been disbursed from the escrow account to Oluwole Ogbonyomi as an arrangement/processing fee. Mr. Scharping advised that he would wire the balance in the account, approximately \$902,000 to Tecon through Bayerische Hypo-und

Vereinsbank wire transfer no. AZHAM 25020473311, dated February 25, 2004.

XX.

Having failed to receive the transfer of \$902,000, Tecon instructed its local Nigerian Bank to trace the wire transfer. Bayerische Hypo-und Vereinsbank informed the local bank that no such transfer existed.

XXI.

The refund of monies (approximately \$1.4 million) in the supposed escrow account has never been received by Tecon.

XXII.

Tecon alleges the following causes of action against defendants, both individually and collectively:

- a) Breach of Contract
- b) Fraud
- c) Conversion
- d) Tortious interference with business relations
- e) Conspiracy to commit each of the above causes of action.

XXIII.

Tecon alleges further causes of action specifically against defendant, Bayerische Hypo-und Vereinsbank as follows:

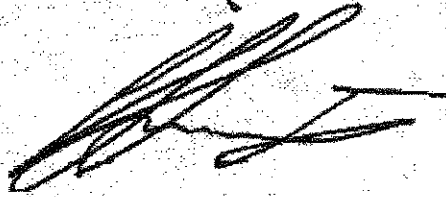
- a) Negligence
- b) Failure to operate in accordance to established international banking practices and standards

XXIV.

Tecon seeks to recover the balance \$1.4 million plus any other applicable compensatory damages for the above causes of action as well as damages for loss of business, damages for breach of contract, punitive damages, interest and attorneys' fees.

WHEREFORE, Tecon Oil Services Limited prays that after due proceedings be had, this Honorable Court rule in its favor and award compensatory damages, damages for loss of business, damages for breach of contract, punitive damages, interest and attorneys' fees in its favor

Respectfully submitted,  
Attorney for Tecon Oil Services Limited

A handwritten signature in black ink, appearing to read 'I. Shahtakhtinski', with a stylized flourish at the end.

Ismail T. Shahtakhtinski, Esq. (NY Bar # 4423133)  
Martins I. Imudia & Associates, APLC  
3201 Danny Park  
Metairie, Louisiana 70002  
Phone: (504) 231-2005  
Fax: (504) 885-0016  
E-Mail: ismail@imudialaw.com

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TECON OIL SERVICES LIMITED

Plaintiff,

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BAYERISCHE HYPO-UND VEREINSBANK,  
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Defendants.

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**NOTICE REGARDING  
AVAILABILITY OF  
ELECTRONIC FILING**

PLEASE TAKE NOTICE that plaintiff(s)/defendant(s) in the case captioned above consents and intends that this matter shall proceed as an electronically-filed case in the Filing by Electronic Means System ("FBEM") in accordance with the procedures therefor, described below. Service of papers by electronic means cannot be made upon a party unless that party consents to use of the system. As soon as possible after service of this Notice, each party served must indicate whether it consents.

**General Information**

In New York State, actions may be commenced and cases processed by means of the FBEM system in (1) tax certiorari claims in the Supreme Court in New York City and in Monroe, Westchester, and Suffolk Counties; (2) tort claims, and commercial claims in the Commercial Division, in the Supreme Court in New York City and in Albany, Monroe, Nassau, Suffolk, and Westchester counties; (3) commercial claims in the Commercial Division of Supreme Court, and proceedings in Surrogate's Court, in Erie County; and (4) selected claims against the State of New York.

Electronic filing offers significant benefits for attorneys and litigants, permitting papers to be filed with the court and served in a simple, convenient and expeditious manner. FBEM case documents are filed with the court by filing on the FBEM Website (go to "E-Courts" at [www.nycourts.gov](http://www.nycourts.gov)), which can be done at any time of the day or night. The documents are deemed filed when they are received by the Unified Court System server. The use of FBEM is governed by Section 202.5-b (Supreme Court), and 206.5 and 206.5-aa (Court of Claims) of the Uniform Rules for the Trial Courts.



**Instructions**

1. The service of this Notice constitutes a statement of intent by the undersigned that the FBEM system be used in this case. When an action or proceeding is being commenced by means of the system, this Notice must accompany service of the initiating papers.
2. **As soon as possible after service of this Notice**, the party served shall advise all parties whether it will agree to have the matter proceed by FBEM. Where the party served agrees, that party must, **as soon as possible after service**, file with the court and serve on all parties a Consent to FBEM. A Consent form can be found in the "Forms" Section of the FBEM Website. The form and other aspects of FBEM are explained in the *User's Manual*, available on the Website. When this Notice Regarding Availability is served with papers initiating a lawsuit, the consent must be filed prior to service of or with the responsive pleadings or motion addressed to the pleadings.
3. Once parties agree that the case will be subject to FBEM, each must **PROMPTLY** submit a Filing User Registration form (see the "Forms" section of the Website) to obtain the confidential Filing User Identification Number and Password necessary to use the system. A party represented by an attorney who has previously registered as a Filing User in another case may file and serve the Consent to FBEM electronically by checking the designated box and following the instructions on the FBEM Website.
4. For additional information about FBEM, see the *User's Manual* and *Frequently Asked Questions* on the Website or contact the court in question or the FBEM Resource Center (at 646-386-3033).

Dated: 05/09/2007



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Ismail T. Shahtakhtinski, Esq.  
Martins I. Imudia @ Associates  
3201 Danny Park, Suite 20B  
Metairie, Louisiana 70002  
Telephone: (504) 885-0015  
Fax: (504) 885-0016  
E-mail: [ismail@imudialaw.com](mailto:ismail@imudialaw.com)

Attorney for plaintiff,  
Tecon Oil Services Limited.